

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)
)
DAVID WHITE and WILDWOOD)
PROPERTY MANAGEMENT LCC,)
)
Respondents.)
)

**RESPONDENTS' RESPONSE TO UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY'S SUBPOENA DUCES TECUM
ISSUED PURSUANT TO SECTION 11(c) OF THE
TOXIC SUBSTANCES CONTROL ACT, 15 U.S.C. § 26010(c) TO
DAVID WHITE AND WILDWOOD PROPERTY MANAGEMENT LLC**

Respondents, David White and Wildwood Property Management LLC ("Respondents"), through their attorneys, Viviano, Pagano & Howlett PLLC, submit the following as their Response to United States Environmental Protection Agency's Subpoena Duces Tecum Issued Pursuant to Section 11(c) of the Toxic Substances Control Act, 15 U.S.C. § 26010(C) to David White and Wildwood Property Management LLC:

RESPONSES

REQUEST NO. 1:

Identify all properties in which, for any period of time since February 15, 2008, you have or had any ownership or management interest (e.g., as an agent), either personally or through any business entity. For each property you must provide the following information:

- a. The date of construction;
- b. Whether you have an ownership interest either directly or indirectly and whether you manage the property. State the type of interest you have (i.e., partnership, joint tenant, shareholder in corporation). Identify all other parties having an ownership or managerial interest (e.g., as an agent) by providing the full name, address, and phone number of each party and state whether each party has an ownership or managerial interest;

- c. The number of rental units within each building and the address of each rental unit within each building. State which units are efficiencies/studios; and
- d. If you no longer own or manage the property, state when you either sold or ceased managing the property. Provide all documents pertaining to a change in the management or sale of the property.

RESPONSE TO REQUEST NO. 1:

WILDWOOD APARTMENTS 207 Second St., Jackson, MI, 49201

- a. 1910
- b. Ownership: Wildwood Apartments LLC
Members: David White, Monica White, Anthony Showich, and Carol Showich Each Member has a 25% Ownership interest

David White
3515 Stonewall Rd., Jackson, MI 49203 25% Ownership

Monica White
3515 Stonewall Rd., Jackson, MI 49203 25% Ownership

Anthony Showich
3400 Daleview, Ann Arbor, MI 48105 25% Ownership

Carol Showich
3400 Daleview, Ann Arbor, MI 48105 25% Ownership

Property Management: Helen Moe
504F Wildwood Ave, Jackson, MI. 49201
Note: Helen Moe has been the Property Manager since June of 2007. Ms. Moe is a 1099'd subcontracted manager who has been a property manager for over 40 years. Ms. Moe manages units for several other property owners as well.

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c. 207 Second St

207 2nd St., Apt 1, Jackson, MI. 49201
207 2nd St., Apt 2, Jackson, MI. 49201
207 2nd St., Apt 3, Jackson, MI. 49201
207 2nd St., Apt 4, Jackson, MI. 49201

Note: Only 2 units were ever rented during our ownership.

d. NA

REQUEST NO. 2:

For each property identified in your response to Item No. 1, above, provide all documents relating to the rental or leasing of the property, including but not limited to:

- a. All leases or rental agreements, including all attachments;
- b. All renewals of leases or rental agreements, including any changes to lease terms;
- c. All documentation of rent increases;
- d. If rent increases were communicated orally, provide copies of the rent receipt ledgers or year-to year rent rolls that document the rent increases;
- e. All lease applications;
- f. All documents pertaining to the disclosure of lead-based paint or lead-based paint hazards; and
- g. All other documents that may have information regarding the name(s) or age(s), or both of lessees and persons living with lessees.

RESPONSE TO REQUEST NO. 2:

- a. Attached in Folder
- b. Attached in Folder

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c. Attached in Folder

d. N/A. As a business practice, rent increases are not made orally

e. N/A

f. Attached with Leases in Folder

g. All responsive documents in Wildwood's possession, custody or control is submitted with this response.

REQUEST NO. 3:

For any property for which you are unable to provide leasing documentation as requested in Item No. 2, above, explain the reason why such documents do not exist or are unavailable.

RESPONSE TO REQUEST NO. 3:

Wildwood has diligently searched all of its business records, which are maintained by its property manager. All responsive documents in its possession, custody and control have been produced pursuant to the subpoena. All apartments and properties that are occupied are covered by standard form leases and related documents, including required lead based paint disclosures. To the extent some lease documents are missing, it is a matter of misplaced documents or improper filing. If additional documents are discovered, they will be promptly produced.

REQUEST NO. 4:

For each property identified in your response to Item No. 1, above, provide copies of all documents relating to the sale of the property, including but not limited to:

- a. All sales contracts or sales agreements, including all attachments;
- b. All buyer's offers to purchase any properties;
- c. All documents pertaining to the disclosure of lead-based paint or lead-based paint hazards; and
- d. All other documents that may have information regarding the name(s) or ages, or both of buyers or persons living with buyers.

RESPONSE TO REQUEST NO. 4:

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No such documents exist as there have been no sales of the referenced properties during the time period referenced.

REQUEST NO. 5:

For each property identified in your response to Item No. 1, above, provide all documents, for any period of time since September 6, 1996, relating to the presence or absence of lead-based paint, or lead-based paint hazards, including but not limited to:

- a. All reports and inspections pertaining to the presence of lead-based paint or lead-based paint hazards;
- b. All documents pertaining to the abatement of lead-based paint or lead-based paint hazards, including but not limited to, inspections conducted by representatives of any state, county, or city, including each city's Department of Health; mitigation plans; orders of abatement; certificates of completion; and notices concerning lead.

RESPONSE TO REQUEST NO. 5:

- a. Please see Attached Exhibit "A" EBL Report dated 9/6/2011.
- b. Please see Attached Exhibit "A" EBL Report dated 9/6/2011.

There has been no abatement completed at this time. We met with several Lead Abatement contractors to get estimates for abatement. Only one contractor actually submitted an estimate. The estimated cost for remediation was in excess \$50,000 for the one unit. Due to financial constraints, we had no choice but to relocate the occupants and close off the building while we determined a course of action. **NO UNITS AT 207 SECOND STREET HAVE BEEN RENTED SINCE CONFIRMATION OF THE EXISTANCE OF LEAD.** We subsequently met with Melisa Roe from the Healthy Homes Section at the State of Michigan to get further direction. At Ms. Roe's suggestion, we met with Phillip Peterson from Fibertec Industrial Hygiene Services. We determined that our most viable option was to have a representative obtain the necessary training to become a Lead Certified Remediator. Our Property Manager, Helen Moe, took the week long course in November but has yet to take the State of Michigan test. Additionally, on 3/26/2013, David White, and three of our maintenance personnel successfully completed the US EPA Lead Renovation, Repair, and Painting Model Certified Renovator Initial Training Course (40 CFR Part 745).

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REQUEST NO. 6:

For each property identified in your response to Item No. 1, above, state whether it contained or contains any lead-based paint or lead-based paint hazards that were known to you before the properties were leased, rented, or sold. In addition, state the date(s) on which you became aware of such lead-based paint or lead-based paint hazards and the basis for such knowledge.

RESPONSE TO REQUEST NO. 6:

Wildwood Apartments LLC had no previous knowledge of any lead based paint or lead based paint hazards. Wildwood Apartments became aware of the presence of Lead-based paint in August of 2011. Please see attached Exhibit "A" EBL Report.

REQUEST NO. 7:

State whether you are aware of the lead disclosure requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and its implementing regulations at 24 C.F.R. Part 5, Subpart H and 40 C.F.R. Part 745, Subpart F (more commonly known as the Disclosure Rule) which require certain lead disclosure actions in the leasing, rental, and sale of properties constructed before 1978. In addition, state when and how you first became aware of the requirements of the Disclosure rule.

RESPONSE TO REQUEST NO. 7:

Wildwood Apartments is aware of the lead disclosure requirement and requires signed Lead Based Paint Disclosures from all Tenants and has done so since Wildwood purchased the building. As set forth above, it is Wildwood's consistent business practice to provide and obtain back the required disclosures. Wildwood's property manager is also aware of these requirements. As property owners, Wildwood has been aware of such requirements since it entered into the leasing business.

REQUEST NO. 8:

For each property identified in your response to Item No. 1, above, state whether you were or are aware of any lessee or any individual living with a lessee that had or has a lead related health problem or had a blood lead level of 10 or greater (i.e., 10 ug/dL or greater) for any period of time since September 6, 1996. For each person identified, state the dates the person lived in the property, state how and when you became aware of the lead problem, and provide any information known to you about the severity of the lead problem such as the numerical blood lead level. In addition provide the following documents:

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- a. All notices from a state or local agency that a lessee or an individual living with the lessee had health-related lead problem or had a blood lead level of 10 or greater (i.e., 10 ug/dL or greater); and
- b. All other documents indicating the presence of children with an elevated blood lead level living in the property.

RESPONSE TO REQUEST NO. 8:

- a. Please see attached Exhibit "A" EBL Report. Coszetta Steele lived in the unit from 2-1-2009 until 9-8-2011. Wildwood Apartments LLC learned of the lead problem upon notification from the State that they would be conducting a lead assessment at this property.
- b. Please see attached Exhibit "A" EBL Report.

REQUEST NO. 9:

For each property identified in your response to Item No. 1, above, state whether you received any complaints from any lessee or individual living with a lessee pertaining to lead problems, the presence of lead-based paint, or lead-based paint hazards for any period of time since September 6, 1996. If you received such complaints, state the substance of the complaint, state the date each such complaint was made, identify the individual who made the complaint, and identify the property to which the complaint pertained.

RESPONSE TO REQUEST NO. 9:

Wildwood Apartments learned of the complaint regarding lead paint in July of 2011. Wildwood Apartments was notified by its manager, Helen Moe, of the lead issue.

REQUEST NO. 10:

Provide all documents which support your responses to Item No. 1 through Item No. 9, above.

RESPONSE TO REQUEST NO. 10:

All requested documents are submitted with these responses.

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March 22, 2013

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing RESPONDENTS' RESPONSE TO UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S SUBPOENA DUCES TECUM ISSUED PURSUANT TO SECTION 11(c) OF THE TOXIC SUBSTANCES CONTROL ACT, 15 U.S.C. § 2601(c) TO DAVID WHITE AND WILDWOOD PROPERTY MANAGEMENT LLC was served upon the party(ies) to the above cause to the attorney(s) of record herein at his/hers/their respective address(es) disclosed in the pleadings on MARCH 22, 2013.

BY:		
	U.S. MAIL	FAX
	HAND DELIVERY	OVERNIGHT EXPRESS
	FEDERAL EXPRESS	OTHER: Email/EFI

Signature: Virginia D. Unwin

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